

How to Enforce Your Rights In the Public Behavioral Health System

The following are ways you can address rights violations and satisfaction with/access to service issues involving the providers and agencies in the system.

Rights Violations

- Tell your provider/team about the issue in detail and work with them to correct it.
- File a complaint with the appropriate Regional Behavioral Health Authority (RBHA) Customer Service (please note that this process is different from the grievance process).
- File a grievance in writing using the appropriate form (please see our website) with details about the alleged rights violation and what solution you want to have (R9-21-403).

Satisfaction with/Access to Service Issues

- Work with your provider/team in the individual service planning process (ISP) to receive the desired service.
- If that does not work:
- file a complaint with the RBHA Customer Service (please note that this process is different from the appeal process) or
- file an appeal in writing using the appropriate form (see our website) with details about the desired service and why you need it (R9-21-401(A)).

Court-Ordered Evaluation/Treatment

- You cannot appeal a court order for evaluation or treatment (including specific services ordered) through the SMI appeal process in the public behavioral health system.
- However, you have the right to defend against court-ordered evaluation/treatment, consult with an attorney, and request judicial review of the order every 60 days in the court that is handling the petition (R9-21-211 & 501-506).

How to Contact Us

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Web Site

<http://www.azdhs.gov/bhs/ohr.htm>

The Office of Human Rights (OHR) is part of the Arizona Department of Health Services, Division of Behavioral Health Services. OHR provides advocacy to individuals determined to have a Serious Mental Illness (SMI) to help them understand, protect and exercise their rights, facilitate self-advocacy through education and obtain access to behavioral health services in the publicly funded behavioral health system in Arizona.

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Division of Behavioral Health Services Office of Human Rights

Your Rights in Arizona as a Person with a Serious Mental Illness (SMI)

The Office of Human Rights also publishes other self-advocacy documents on various topics. You can download them from our website or call our office to request a copy.

The intent of this brochure is to provide general information to individuals determined to have a Serious Mental Illness in Arizona's public behavioral health system regarding their rights. It is not intended as a substitute for individual guidance or advice. Additionally, the ADHS/DBHS Office of Human Rights is not a law firm.

Your Rights: Civil & Other Legal Rights

Individuals determined to have a Serious Mental Illness (SMI) in Arizona have many rights under the law. This brochure gives an overview of general rights and also rights contained in the Arizona Administrative Code at Title 9, Chapter 21 (R9-21-101 *et seq.*), commonly referred to as the “SMI Rules.”

Civil and Other Legal Rights

As an individual determined to have a Serious Mental Illness, you do not lose basic legal rights. Each individual has many civil and legal rights (A.A.C. R9-21-201, 206, 208 & 211 lists many of them), primarily the right to:

- Privacy
- Religious freedom
- Communicate*
 - reasonable access to a telephone
 - send and receive uncensored and unopened mail
- Associate with others of your choice*
- Be visited and visit with others*
- Acquire, retain and dispose of personal property*
- Enter into contracts*
- Hold professional or occupational licenses*
- Hold a driver license*
- Register to vote and vote*
- Marry, obtain a divorce, have a family, live in the community of your choice, handle your personal and financial affairs*
- Be free from unlawful discrimination on the basis of race, creed, religion, sex or physical or mental disability
- Be informed of your rights, in a language and in terms you understand best.

*Unless under a general guardianship (Please note that in limited guardianships, the court can leave some rights in place and take others away. Look at the specific court order for details).

Your Rights in the Public Behavioral Health System

Individuals determined to have a Serious Mental Illness have additional rights in the public behavioral health system (A.A.C. R9-21-201 through 211). Some of these include the following:

- You have the right to give informed consent for psychotropic medication, which means you (R9-21-207 & 206.01(C)):
 - must receive information about your diagnosis, nature of the medication, the expected effect, the risks and side effects, any risks if you do not take the medication, alternative treatments, and signs that might require you to discontinue the medication;
 - must give your permission in writing;
 - have the right to withhold or later revoke your consent without fear of punishment.
- You should not be given medication that is unnecessary or is excessive.
- You can only be secluded (placed in a room from which you are not allowed to leave) and/or restrained (tied down with straps, physically held or given medication to control behavior/restrict movement temporarily) under limited circumstances (R9-21-204):
 - when you are an immediate danger to yourself or others,
 - after staff has unsuccessfully made other attempts that are less restrictive, and
 - only until the danger has passed and you and others will be safe.
 - Staff can never use seclusion or restraint as a convenience for them or to discipline, coerce, or retaliate against you.
- You should be free from abuse – physical, sexual, and verbal, which includes
 - staff must protect you from abuse, neglect, exploitation, mistreatment and commercial exploitation
 - staff cannot use corporal punishment or unreasonable force.
- You have the right to file a grievance or an appeal. Staff cannot retaliate against you for reporting rights violations or satisfaction with access to service issues.

The Right to Support and Treatment (R9-21-202 & 211)

Individualized, responsive treatment that

- is culturally sensitive,
- builds on your strengths and
- addresses your unique needs.

Team-based, recovery-focused approach, including

- a continuum of care not limited to case management, outreach, housing and residential services, crisis intervention and resolution services, mobile crisis teams, vocational training, day treatment, rehabilitation services, peer support, social support, recreation services, family support services, counseling, transportation and medication services
- a written individual service plan (ISP)
- a case manager who helps locate and access services and oversees the provision of services, along with the clinical team.

Treatment that supports your

- freedom of choice
- participation to the fullest extent possible in treatment decisions and all phases of treatment
- right to receive services voluntarily (to the maximum extent possible)
- right to consent or refuse treatment (except in case of court order or emergency)
- right to a discharge plan and prompt consideration for discharge from inpatient facilities.

Treatment that is given in a way that

- preserves dignity
- protects your privacy
- integrates you into the community
- is in the least restrictive environment
- recognizes your right to undergo normal experiences, even if they involve an element of risk
- respects your right to be represented by a designated representative, attorney or qualified advocate of your choice.

Your Records

- Must be complete, accurate, timely and relevant.
- Are private and can only be released to individuals authorized by federal or state law.
- Copies must be provided in a timely manner upon your written request (unless it would not be in your best interest; then the provider must give you a written explanation of the reason and your right to have it reviewed and/or to file a grievance).